

REMARKS

In the Office Action mailed May 29, 2010, claims 1-9, 11, 12 and 15-42 are rejected. Claims 1, 15, 29, 30 and 36 are currently amended. Claims 10 and 13-14 are canceled. Claims 1-9, 11, 12 and 15-42 are now pending. Withdrawal of the rejections and reconsideration and allowance of claims 1-9, 11, 12 and 15-42 are respectfully requested in view of the following remarks.

Rejections under 35 U.S.C. § 103

Claims 1-9, 11, 12, 15-29, 32, 34-37, 39 and 41-42, are rejected under 35 U.S.C. 103(a) over Sullivan et al. (US 2001/0018665 A1) in view of Mitchell (7,496,525) in view of Hisamatsu (20020007328). Claims 31, 33, 38, and 40 are rejected under 35 U.S.C. 103(a) over Sullivan et al. (US 2001/0018665 A1) in view of Mitchell (7,496,525) in view of Hisamatsu (20020007328) in view of Woolston (US 5,845,265).

Claims 1, 15 and 36

Sullivan in view of Mitchell in view of Hisamatsu do not describe and would not have made obvious paying an incentive on a sale of a product based on a contract between the manufacturer and a host of a marketplace which specifies the number of times the product may be sold (or resold) to be eligible for the incentive, as recited in claim 1.

Sullivan discloses a system for administering promotions and for recording, capturing, tracking, monitoring, verifying and settling product promotions, but does not disclose or suggest that an agreement can be established between a manufacturer and a host of a marketplace. Rather, the only terms entered into are between retailers and manufacturers. See Sullivan, paragraph [0019] and [0020]. Further, Sullivan does not disclose or suggest that a manufacturer's incentive may be based on such an agreement that provides for the number of times a product may be sold (or resold) to be eligible for an incentive.

Mitchell discloses a purchase coordinator in one embodiment that may create and host a retailer's virtual storefront. See Mitchell, col. 3, ln. 10-15. In another embodiment, a purchase coordinator may assist in allocating money between a retailer, distributor and manufacturer which corresponds to appropriate portions of the total value of an order. See Mitchell, col. 5, ln. 20-24. Mitchell, however, does not disclose or suggest an agreement between the purchase coordinator and a manufacturer. Further, Mitchell does not disclose or suggest that a manufacturer's incentive may be based on such an agreement that provides for the number of times a product may be sold (or resold) to be eligible for an incentive.

Hitsamatsu discloses an apparatus which may pass a share of profits on to equipment manufacturers. See Hitsamatsu, paragraph [0093]. In Hitsamatsu, the pay back is based on information about earnings and expenses obtained, and Histamatsu does not disclose or suggest an agreement between a manufacturer and host of a marketplace to determine such pay back. See Histmatsu, paragraph [0093].

Independent claims 15 and 36 are patentable for at least the similar reasons as those provided with respect to claim 1.

Claim 29

Sullivan in view of Mitchell in view of Hisamatsu do not describe and would not have made obvious paying an incentive on a sale of a product based on a contract between the manufacturer and a host of a marketplace which specifies calculating the incentive based on a total revenue of all goods sold by the manufacturer in the marketplace, as recited in claim 29.

Sullivan discloses a system for administering promotions and for recording, capturing, tracking, monitoring, verifying and settling product promotions, but does not disclose or suggest that a contract can be established between a manufacturer and a host of a marketplace. Rather, the only terms entered into are between retailers and manufacturers. See Sullivan, paragraph [0019] and [0020]. Further, Sullivan does not disclose or suggest that a manufacturer's incentive may be based a calculation which takes into account a total revenue of all goods sold by the manufacturer in the marketplace.

Mitchell discloses a purchase coordinator in one embodiment that may create and host a retailer's virtual storefront. See Mitchell, col. 3, ln. 10-15. In another embodiment, a purchase

coordinator may assist in allocating money between a retailer, distribute and manufacturer which corresponds to appropriate portions of the total value of an order. See Mitchell, col. 5, ln. 20-24. Mitchell, however, does not disclose or suggest a contract between the purchase coordinator and a manufacturer. Further, Mitchell does not disclose or suggest that a manufacturer's incentive may be based a calculation which takes into account a total revenue of all goods sold by the manufacturer in the marketplace.

Hitsamatsu discloses an apparatus which may pass a share of profits on to equipment manufacturers. See Hitsamatsu, paragraph [0093]. In Hitsamatsu, the pay back is based on information about earnings and expenses obtained and is meant to offset service and/or advertising fees. See Histamatsu, paragraph [0082]. Hitamatsu does not disclose or suggest a contract between a manufacturer and host of a marketplace to determine such pay back nor does Hitsamatsu disclose or suggest that a manufacturer's incentive may be based a calculation which takes into account a total revenue of all goods sold by the manufacturer in the marketplace.

Reconsideration and allowance of pending Independent Claims 1, 15, 29 and 36 including all claims dependent thereon is respectfully requested.

It shall be understood herein that any instance in which the Applicants have addressed certain comments of the Examiner shall not be construed as a concession to other comments or arguments advanced by the Examiner. Furthermore, any circumstance in which the Applicants have made arguments for the patentability of some claims does not mean that there are not other valid reasons for patentability of those claims and other pending claims. Any circumstance in which the Applicants have amended or canceled a claim also does not mean necessarily that the Applicants concede to the arguments or positions advanced by the Examiner with respect to that claim or other claims pending herein.

CONCLUSION

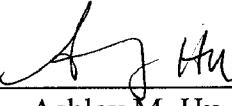
Applicants submit that this paper fully addresses the Office Action mailed on May 20, 2010. Should the Examiner have any question, the Examiner is encouraged to contact the undersigned.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 23-2415 (Attorney Docket No. 38606-701.201) for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

Dated: November 12, 2010

By: 
Ashley M. Hu, Reg. No. 62,874

650 Page Mill Road
Palo Alto, CA 94304-1050
(650) 493-9300
Client No. 021971